

to the benefit of any such owner or Lender, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon the foreclosure of the Mortgage, shall be self-operative upon any such demand, and no further instrument shall be required to give effect to said provisions. Tenant, any owner and Lender, however, upon demand of the other, hereby agrees to execute, from time to time, instruments in confirmation of the foregoing provisions of subdivisions (a) and (c), reasonably satisfactory to the requesting party acknowledging such subordination, non-disturbance and attornment as are provided in such subsections and setting forth the terms and conditions of its tenancy.

(d) Tenant agrees that, if requested by Landlord, Tenant shall, without charge, enter into (i) a Subordination, Non-Disturbance and Attornment Agreement reasonably requested by Lender and (ii) an agreement with Lender whereby Tenant shall agree for the benefit of Lender that Tenant will not, without in each case the prior written consent of Lender, (a) amend, modify, cancel or surrender the term of this Lease except as expressly permitted by the provisions of this Lease, or enter into any agreement with Landlord so to do, or (b) pay any installment of Basic Rent more than one (1) month in advance of the due date thereof or otherwise than in the manner provided for in this Lease.

(e) No Lender shall, upon assuming title to the Leased Premises, be liable for any act or omission of any prior landlord

(including Landlord), be subject to any offsets or defenses which Tenant may have against any prior landlord, be bound by any rent or additional rent paid for more than the then current period to any prior landlord, or be bound by any agreement or modification of this Lease made without such Lender's consent after Tenant has been given written notice of such Lender's interest. Nothing herein shall be construed to be in conflict with the provisions of Paragraph 7 hereof.

17. Assignment, Subleasing.

(a) The Leased Premises may be sublet in whole or in part without the consent of Landlord. Tenant shall not assign its interest in this Lease without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed if the proposed assignee shall have demonstrated sound business judgment and experience in the business to be conducted in the Leased Premises. The net worth, credit and financial responsibility of the proposed assignee shall not be considered by Landlord in determining whether to grant or withhold its consent to the proposed assignment. The assignment of this Lease by Tenant named herein to a purchaser of all or substantially all of the Circuit City Stores in the State, shall not require the prior written consent of Landlord. Assignment of this Lease by Tenant to a parent, subsidiary or affiliate of Tenant shall not require the consent of Landlord. Parent of Tenant shall mean any corporation which owns all or substantially all of the outstanding shares of Tenant. A "subsidiary" of Tenant shall

mean any corporation not less than fifty-one (51%) percent of whose outstanding voting stock at the time shall be owned by Tenant, and (b) an "affiliate" of Tenant shall mean any corporation, partnership or other business entity which controls or is controlled by, or is under common control with Tenant. The word "control" (including "controlled by," "under common control with" and "controlling") is used with respect to any corporation, partnership or other business entity, shall mean the possession of the power to direct or cause the direction of the management and policies of such corporation, partnership or other business entity, whether through the ownership of voting securities or contract. Notwithstanding any assignment or subletting, Tenant shall continue to remain liable and responsible for the payment of the Basic Rent and Additional Rent and the performance of all its other obligations under this Lease.

(b) If the term of this Lease shall terminate by reason of the occurrence of an Event of Default and not for any termination arising by reason of condemnation, fire or other casualty, Landlord shall serve notice of such termination upon the holder of a sublease of the entire Leased Premises, who shall qualify for a new lease, under the following provisions of this paragraph, and who shall have served upon Landlord, at the time of its execution of its sublease, the name and address of such subtenant, and that it desires to be entitled to a new lease under the provisions of this subdivision (b) upon such termination of this Lease. To qualify for such new lease, such

subtenant shall at the time of the termination of this Lease have a Standard & Poor's investment grade rating of BBB or a Moody's investment grade rating of Baa2, (or equivalent rating of any other generally recognized rating organization) and not be on a credit watch. Upon the written request of such subtenant, within thirty days after service of notice by Landlord upon said subtenant that this Lease has been so terminated, Landlord shall enter into a new lease of the Leased Premises with such subtenant as follows:

Such new lease shall be entered into at the reasonable cost of the tenant thereunder, shall be effective as at the date of termination of this Lease, and shall be for the remainder of the term of this Lease and at the Basic Rent and Additional Rent and upon all the agreements, terms, covenants and conditions hereof, including any applicable rights of renewal. Such new lease shall be subject to all leases, tenancies and occupancies of the leased Premises. Such new lease shall require the tenant promptly to perform all unfulfilled monetary obligations of Tenant under this Lease and all other unfulfilled obligations of Tenant under this Lease which are reasonably susceptible of being performed by such tenant. Upon the execution of such new lease, the tenant named therein shall pay to Landlord any and all sums which would at the time of the execution thereof be due under this Lease but for such termination, and shall pay all expenses, including reasonable counsel fees, court costs and disbursements incurred by Landlord in connection with such defaults and

termination, the recovery of possession of said premises, and the preparation, execution and delivery of such new lease.

(c) If (x) the term of this Lease shall terminate by reason of the occurrence of an Event of Default and not for any termination arising by reason of condemnation, fire or other casualty, (y) the Expansion Premises has been substantially completed in accordance with the provisions of Section 36 hereof, and (z) Tenant has subleased the entire Expansion Premises and/or the entire original Leased Premises (other than pursuant to subparagraph (b) hereof), then in such event Landlord shall serve notice of such termination upon the holder of a sublease of the entire Expansion Premises and/or the holder of a sublease of the entire original Leased Premises, who shall qualify for a new lease under the following provisions of this paragraph, and who shall have served upon Landlord, at the time of its execution of its sublease, the name and address of such subtenant, and that it desires to be entitled to a new lease under the provisions of this subdivision (c) upon such termination of this Lease. To qualify for such new lease, such subtenant shall, at the time of the termination of this Lease, have a Standard & Poor's investment grade rating of BBB or a Moody's investment grade rating of Baa2 (or equivalent rating of any other generally recognized rating organization), and not be on a credit watch. Upon the written request of such subtenant, given within thirty (30) days after service of notice by Landlord upon said subtenant that this Lease has been so terminated, Landlord shall enter into

a new lease of the Expansion Premises and/or original Leased Premises with such subtenant as follows:

Such new lease shall (i) be entered into at the reasonable cost of the tenant thereunder, (ii) be effective as of the date of termination of this Lease, (iii) lease to such tenant the Expansion Premises or original Leased Premises, as the case may be (said premises so leased is hereinafter referred to as the "New Leased Premises"), (iv) be for the remainder of the term of this Lease, (v) be at the same Basic Rent and Additional Rent as contained in this Lease, prorated on the basis of the square footage of the building on the New Leased Premises compared to the aggregate square footage of the building(s) on the entire Leased Premises, and (vi) be upon all the agreements, terms, covenants and conditions of this Lease, including any applicable rights of renewal as they relate to the New Leased Premises.

Such new lease shall be subject to all leases, tenancies and occupancies of the New Leased Premises. Such new lease shall require the tenant promptly to perform all unfulfilled monetary obligations of Tenant under this Lease relating to the New Leased Premises and all other unfulfilled obligations of Tenant under this Lease relating to the New Leased Premises which are reasonably susceptible of being performed by such tenant. Upon the execution of such new lease, the tenant named therein shall pay to Landlord any and all sums which would at the time of the execution thereof be due under this Lease relating to the New Leased Premises but for such termination, and shall pay its

prorata share (computed as provided above for the proration of Basic Rent and Additional Rent) of all expenses, including reasonable counsel fees, court costs and disbursements incurred by Landlord in connection with such defaults and termination and the recovery of possession of the entire Leased Premises. Said tenant shall also pay for all costs incurred by Landlord in the preparation, execution and delivery of such new lease.

Notwithstanding the foregoing, the new lease shall include such modifications and amendments to this Lease as Landlord and Lender may require in order to reflect the fact that the new lease only pertains to the New Leased Premises and not the entire Leased Premises under this Lease. For example, but without limitation, such modifications and amendments would include reciprocal parking and access rights with the entire Leased Premises and the payment by the tenant to Landlord of such tenant's prorata share of Impositions and certain operating, maintenance and other costs which would necessarily be incurred by Landlord because such costs relate to the entire Leased Premises. Such new lease shall also provide that the Basic Rent for each renewal term shall be the fair rental value of the New Leased Premises as of the date which is six (6) months prior to the expiration of the then current term and that failing agreement between the tenant and Landlord as to such Basic Rent within four (4) months prior to the expiration of the then current term, the Basic Rent will be decided by arbitration



pursuant to arbitration provisions to be included in the new lease as prepared by Landlord.

A subtenant otherwise qualified for a new lease hereunder, who does not request a new lease within thirty (30) days after service of notice by Landlord upon said subtenant that this Lease has been terminated, shall have the right to remain in possession of the Expansion Premises or original Leased Premises, as the case may be, for a period of six (6) months after it receives a copy of the Notice that Tenant is in default under this Lease, provided it (x) pays to Landlord the same Basic Rent and Additional Rent as contained in this Lease, prorated on the basis of the square footage of the building being subleased by such subtenant compared to the aggregate square footage of the building(s) on the entire Leased Premises and (y) complies with the agreements, terms, covenants and conditions of this Lease relating to the premises subleased by such subtenant.

(d) Landlord agrees that any mortgage shall contain a provision obligating the Lender to send a copy of any Notice that Landlord is in default under the Mortgage to any subtenant who has qualified for a new lease under Sections 17(b) or (c) of this Lease and who shall have served upon Lender, at the time of its execution of the sublease, the name and address of such subtenant, and that it desires to be entitled to a new lease under the provisions of Sections 17(b) or (c), as the case may be, upon the termination of this Lease.



(e) Each sublease of the Leased Premises or any part thereof shall (subject to subparagraphs 17(b) and (c) hereof) terminate upon termination of this Lease prior to the Expiration Date of the Term and shall, in any event, terminate and expire at least two (2) days prior to the Expiration Date of the Term, and shall be subject and subordinate to the provisions of this Lease. No assignment or sublease made as permitted by this Paragraph 17 or otherwise, shall affect or reduce any of the obligations of Tenant hereunder, and all such obligations shall continue in full force and effect as obligations of a principal and not as obligations of a guarantor, as if no assignment or sublease had been made. No assignment or sublease shall impose any obligations on Landlord under this Lease except as herein otherwise provided. Tenant agrees that in the case of an assignment, Tenant shall, within fifteen (15) days after the execution and delivery of any such assignment, deliver to Landlord (i) a duplicate original of such assignment in recordable form and (ii) an agreement executed and acknowledged by the assignee in recordable form wherein the assignee shall agree to assume and agree to observe and perform all of the terms and provisions of this Lease on the part of the Tenant to be observed and performed from and after the date of such assignment, and, in the case of a sublease, Tenant shall, within fifteen (15) days after the execution and delivery of such sublease, deliver to Landlord a duplicate original of such sublease.

Upon the occurrence of an Event of Default under this Lease, Landlord shall have the right to collect and apply to the rent and other payments due hereunder all rents and other sums of money payable under any sublease of any of the Leased Premises, and Tenant hereby irrevocably and unconditionally assigns such rents and money to Landlord for such purpose, which assignment may be exercised upon and after (but not before) the occurrence of an Event of Default. Tenant shall not mortgage or pledge this Lease, and any such mortgage or pledge made in violation of this Paragraph shall be void.

18. Permitted Contests. After prior written notice to Landlord, Tenant shall not be required to (i) pay any Imposition, (ii) comply with any Legal Requirement, (iii) discharge or remove any lien referred to in Paragraphs 9 or 12, or (iv) take any action with respect to any encroachment, violation, hindrance, obstruction or impairment referred to in Paragraph 11(b) so long as Tenant shall contest, in good faith and at its expense, the existence, the amount or the validity thereof, the amount of the damages caused thereby, or the extent of its or Landlord's liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent (a) the collection of, or other realization upon, the Imposition or lien so contested, (b) the sale, forfeiture or loss of any of the Leased Premises, any Basic Rent or any Additional Rent to satisfy the same or to pay any damages caused by the violation of any such Legal Requirement or by any such encroachment, violation,

hindrance, obstruction or impairment, (c) any interference with the use or occupancy of any of the Leased Premises, (d) any interference with the payment of any Basic Rent or any Additional Rent, (e) the cancellation of any fire or other insurance policy, and (f) Landlord would not be in danger of civil or criminal liability or sanctions for failure so to pay or perform. Tenant shall provide Lender or Landlord in that order as security for such contest, an amount of cash or bond equal to 125% of the amount being contested, or other security satisfactory in the sole but reasonable opinion of Lender or Landlord in that order, in assuring the payment, compliance, discharge, removal or other action, including all costs, attorneys' fees, interest and penalties, in the event that the contest is unsuccessful; provided, however, no such security shall be required if the amount involved in the contest shall not exceed one tenth (1/10th) of one (1%) percent of the tangible net worth of Tenant, computed in accordance with generally accepted accounting principles consistently applied. While any such proceedings are pending and the required security, if any, is held by Lender or Landlord, in that order, Lender or Landlord, as the case may be, shall not have the right to pay, remove or cause to be discharged the Imposition or lien thereby being contested unless any one or more of the conditions in subdivisions (a) through (f) shall not be prevented during the pendency of the contest. Tenant further agrees that each such contest shall be promptly and diligently prosecuted to a final conclusion, except that Tenant shall, so

long as all of the conditions of the first sentence of this Paragraph are at all times complied with, have the right to attempt to settle or compromise such contest through negotiations. Tenant shall pay and save Lender and Landlord harmless against any and all losses, judgments, decrees and costs (including all attorneys' fees and expenses) in connection with any such contest and shall, promptly after the final determination of such contest, fully pay and discharge the amounts which shall be levied, assessed, charged or imposed or be determined to be payable therein or in connection therewith, together with all penalties, fines, interest, costs and expenses thereof or in connection therewith, and perform all acts the performance of which shall be ordered or decreed as a result thereof.

19. Conditional Limitations; Default Provisions.

(a) The occurrence of any one or more of the following events (any such event being specified herein as a "failure" or "default") shall constitute an Event of Default under this Lease: (i) a failure by Tenant to make (regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, in law, in equity or before any administrative tribunal, which had or might have the effect of preventing Tenant from complying with the provisions of this Lease) (x) any payment of Basic Rent (1) which continues unremedied for a period of five (5) days after notice ("Nonpayment Notice") thereof from Landlord or Lender or (2) which continues unremedied for a period